

HOUSE BILL 2274
By McMillan

AN ACT to amend Tennessee Code Annotated
Title 11, Chapter 7, relative to
acquisition and preservation of land.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

Section 1. Tennessee Code Annotated, Title 11, Chapter 7 is amended by adding sections 2 through 9 as a new part named The Cumberland Plateau Conservation Foundation.

Section 2. This Act shall be known as the Cumberland Plateau Conservation Foundation Act of 2005.

Section 3. Definitions. As used in this part, unless the context requires otherwise:

- () "Board" means the governing body of the Foundation created under this Chapter;
- () "Commissioner" means the Commissioner of the Department of Environment, or the Commissioner's designee, or in the event of a vacancy in the office of Commissioner, the deputy Commissioner;
- () "Department" means the Department of Environment and Conservation;
- () "Director" means the highest official within the Department whose authority covers the state parks, but not the environmental programs;
- () "Foundation" means the Cumberland Plateau Conservation Foundation;
- () "Fund" means the Cumberland Plateau Conservation Foundation Fund created under this part administered by the Foundation;

Section 4. The Cumberland Plateau Conservation Foundation. There is hereby created and established the Cumberland Plateau Conservation Foundation to do all of the following in the counties of Clay, Overton, Pickett, Fentress, Scott, Jackson, Putnam, Cumberland, Morgan, DeKalb, White, Warren, Van Buren, Bledsoe, Rhea, Grundy, Sequatchie, Franklin, and Marion, working in collaboration and cooperation with all interested governmental agencies and non-profit organizations:

- (a) Provide increased opportunities for tourism and recreation;
- (b) Protect, conserve, and restore the region's physical, cultural, archaeological, historical, and living resources;
- (c) Aid in the preservation of working landscapes;
- (d) Award grants to further the purposes of this part;
- (e) Protect and improve water and air quality;
- (f) Assist the regional economy through the operation of the foundation's program;
- (g) Identify the highest priority projects and initiatives for which funding is needed;
- (h) Undertake efforts to enhance public use and enjoyment of lands owned by the public; and
- (i) Exercise all other powers expressly granted or implied by this chapter or other law.

Section 5. The Board of Directors. (a) The Foundation shall be governed by a board of directors comprised of the following seven (7) members:

- (1) The Commissioner or his or her designee;
- (2) The Director or his or her designee;
- (3) Three members to be appointed by the Governor to represent environmental, conservation, or recreation interests; and
- (4) Two members to be appointed by the Governor to represent interests of the Cumberland Plateau area.

(b) Appointed members of the board shall serve for four year terms, except that the initial appointees of the governor shall serve for a six year term, to allow for staggering of terms. Board members shall not serve more than two consecutive full terms. Should a position become vacant through resignation, removal, or other cause, the appointive authority shall appoint a member to serve for any remaining portion of that member's term.

(c) Members of the board shall serve without compensation, except for reimbursement of travel expenses in accordance with state travel regulations. Any appointive member who is absent from three consecutive regularly scheduled meetings shall be removed from the board by the governor. Appointive members shall continue to serve after the expiration of a term until they are replaced.

(d) A quorum of the board shall be 5 members.

(e) The board shall adopt a conflict of interest policy so that all members will avoid any situations involving a conflict of interest.

Section 6. The Fund. (a) There is created a special agency account in the state general fund to be known as the Cumberland Plateau Conservation Foundation Fund administered by the foundation and the department.

(b) Any balance remaining unexpended at the end of a fiscal year in the fund shall be carried forward into the subsequent fiscal year.

(c) Interest accruing on investments and deposits of the fund shall be carried forward into the subsequent fiscal year.

(d) Unless otherwise specified in this part, any funds appropriated to the Cumberland Plateau Conservation Foundation shall be deposited in the fund. No part of the fund shall be diverted to the general fund or any other public fund.

(e) Moneys in the fund shall be invested by the state treasurer in accordance with applicable general law, except as qualified by this chapter.

(f) The foundation is authorized to request and receive gifts, contributions, bequests, donations, and grants from any source, provided that such funds shall be deposited into the fund and if any such items are not in the form of funds, any income, rents, or proceeds from them together with any other funds from any source received by the Foundation for any reason shall be deposited in the fund.

(g) Moneys in the fund shall only be expended in accordance with, and for the purposes stated in, the provisions of this part.

Section 7. Grants (a) The foundation may make grants or loans from the fund to public agencies and nonprofit organizations in order to carry out the purposes of this part, including grants or loans provided to acquire an interest in real property, including a fee

interest in that property. Grant or loan funds shall be disbursed to a recipient entity only after the entity has entered into an agreement with the foundation, on the terms and conditions specified by the foundation. After approving a grant, the foundation may assist the grantee in carrying out the purposes of the grant.

(b) When awarding grants or making loans pursuant to this division, the foundation may require repayment of those funds on the terms and conditions it deems appropriate. Proceeds from the repayment or reimbursement of amounts granted or loaned by the foundation shall be deposited in the fund.

(c) Any entity applying for a grant from the foundation to acquire an interest in real property shall specify all of the following in the grant application:

(1) The intended use of the property, or whether the intent is to transfer the property to another and if known, who is the intended transferee;

(2) If no transfer is intended, the manner in which the property will be managed;

(3) How the cost of ongoing management will be funded; and

(4) Any other information required on an application form used by the foundation.

(d) In the case of a grant of funds to a nonprofit organization to acquire an interest in real property, including, but not limited to, a fee interest, the agreement between the foundation and the recipient nonprofit organization shall require all of the following:

(1) The terms under which the interest in real property is acquired shall be subject to the foundation's approval;

(2) An interest in real property to be acquired under the grant shall not be used as security for a debt unless the foundation approves the transaction;

(3) The transfer of an interest in the real property shall be subject to approval of the foundation, and a new agreement sufficient to protect the public interest shall be entered into between the foundation and the transferee; and

(4) A deed or instrument by which the nonprofit organization acquires an interest in real property under the grant shall provide that the conveyance is subject to a

remainder interest vested in the state. If the existence of the nonprofit organization is terminated for any reason, the foundation may require that the remainder shall become a present interest and that full title to the real property shall vest in the state, or in another public agency or a nonprofit organization designated by the foundation to which the state conveys or has conveyed its interest.

Section 8. Other Powers of the Foundation. Other powers, duties and functions of the foundation are as follows:

- (a) Enter into contracts and cooperative agreements with state, federal and local governments, with agencies of such governments, with private individuals and corporations, and with associations and organizations as the foundation may deem necessary or convenient to enable it to carry out the purposes of this part;
- (b) Adopt, amend and repeal bylaws;
- (c) Set policy for the authority, including identifying projects, the priority of work and allocating how the budget will be spent;
- (d) Delegate any of its powers and duties to the staff assigned to it within the department;
- (e) Acquire, by purchase or by donation, and convey, sell, exchange or lease any interest in real property; however the foundation does not have the power of eminent domain;
- (f) To manage any property under its ownership or control consistently with the purposes of this part; and
- (g) To charge reasonable fees for any services performed, provided that any funds from such fees are deposited into the fund created by this part.

Section 9. Planning and Public Input. After receiving public input, the foundation shall adopt guidelines setting priorities and criteria for projects and programs, based upon its assessment of program requirements, institutional capabilities, and funding needs throughout the region, and federal, state, and local plans, including general plans, recreation plans, urban water management plans, and groundwater management plans. As part of the process of developing guidelines for projects and programs, the foundation shall

undertake and facilitate a strategic program planning process involving public meetings and workshops in the area, with the purpose of formulating strategic program objectives and priorities within the area. The strategic program shall be updated regularly, at least once every five years.

Section 10. This Act shall take effect upon becoming a law, the public welfare requiring it.